

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 951 - HB 843

March 10, 2013

SUMMARY OF BILL: Increases, from \$40 to \$50, the fine for violation of the open container law. Extends the law to passengers in the vehicle. Passengers in vehicles for hire or the living quarters of a house coach or trailer are exempted from the open container law. Establishes administrative license revocation. Authorizes law enforcement to confiscate the driver's license of any individual being charged with DUI for the purpose of an official administrative revocation hearing to be conducted by the Department of Safety (DOS). Establishes procedures to be followed for law enforcement officers, charged individuals, and DOS. Requires DOS to issue to charged individuals a temporary permit, or a temporary photo identification license. Requires charged individuals to pay the DOS administrative processing fees of \$100 and a reinstatement fee of \$100.

ESTIMATED FISCAL IMPACT:

**Increase State Revenue – \$28,700/FY13-14
\$1,692,300/FY14-15
\$3,919,000/FY15-16 and Subsequent Years**

**Increase State Expenditures – \$5,263,800/FY13-14
\$6,989,900/FY14-15 and Subsequent Years**

Increase Local Revenue – \$1,500/FY13-14 and Subsequent Years

**Increase Local Expenditures – \$218,500/FY13-14*
\$158,500/FY14-15 and Subsequent Years***

Other Fiscal Impact – To the extent passage of this bill brings Tennessee into full compliance with federal open container requirements, a transfer of funding from the Federal Highway Administration (FHWA) to the National Highway Traffic Safety Administration (NHTSA) will stop. The net impact will be an average of an additional \$1,500,000 in federal funding available annually to TDOT from the FHWA. Such determination will be made by the NHTSA and the FHWA.

Assumptions:

- According to the Department of Safety (DOS), there are approximately 650 violations of the open container law committed by drivers each year.
- A current fine of \$40 for violations.
- Twenty-five percent will not pay fines due to indigence.
- The total recurring increase in revenue from violations will be \$4,875 ($\$10 \text{ fine increase} \times 650 \text{ violations} \times 75\%$).
- DOS estimates the number of violations by passengers to be 675 per year, resulting in a recurring increase in revenue of \$25,313 ($675 \times \$50 \times 75\%$).
- The total recurring increase in revenue will be approximately \$30,188 ($\$25,313 + \$4,875$). Local governments will receive a five percent court clerk fee totaling \$1,509 ($\$30,188 \times 5\%$) per year. The remaining 95 percent will increase state revenue by \$28,679 ($\$30,188 \times 95\%$) in FY13-14 and subsequent years.
- Any cost can be accommodated within existing state and local government resources without additional resources.
- Pursuant to 23 CFR, Part 1270, federal funding in an amount equal to three percent of funds apportioned to the state in that fiscal year is transferred from the FHWA programs to NHTSA programs. This transfer will stop when the state is in compliance with the requirements of federal Title 23 CFR Part 1270 (open container law).
- Federal funding received from the FHWA provides funding for certain highway related programs such as the national highway system, the surface transportation system, and interstate maintenance.
- Federal funding received from the NHTSA provides funding for section 402 programs such as alcohol counter-measures, occupant protection, police traffic services, emergency medical services, traffic records, motorcycle safety, pedestrian and bicycle safety, non-construction aspects of roadway safety, and speed control.
- Once the state is in full compliance with the federal open container requirements, an additional average of \$1,500,000 in federal funding will be available annually to the Tennessee Department of Transportation (TDOT) from the Federal Highway Administration (FHWA). These funds will be in addition to the amount currently available to the state from the National Highway Traffic Safety Administration (NHTSA).
- According to TDOT, it cannot be determined whether this bill will bring Tennessee into full compliance with federal open container requirements. Such determination is made by the NHTSA and the FHWA.
- DOS indicates approximately 34,000 DUI arrests and approximately 27,000 convictions per year.
- To implement the provisions of this bill, DOS will require the following additional resources: 44 additional positions in the Driver License Issuance Division; 17 additional positions in the Technical Services Division; two additional positions in the Human Resource Division; two additional positions in the Fiscal Services Division; three additional positions in the Information Resources Division; and seven additional positions in the Legal Division. The total number of positions required is estimated to be 75. The recurring increase to departmental expenditures is estimated to be \$4,512,800

- per year (salary, benefits, supplies, communications, etc.) One-time expenditures associated with the creation of these positions are estimated to be \$717,400 in FY13-14.
- According to DOS, these positions will be hired throughout FY13-14 in preparation for full implementation by FY14-15. The Department indicates that approximately \$2,049,300 of full-year recurring expenditures will be incurred during FY13-14.
 - Total first-year (FY13-14) expenditures for the DOS are estimated to be \$2,766,700 (\$2,049,300 + \$717,400).
 - The Administrative Office of the Courts (AOC) has indicated that it expects the number of appeals to increase significantly as a result of this bill. AOC has indicated at least one additional Chancellor and an Administrative Assistant position will be required to handle the additional number of appeals. Expenditures are divided between AOC and local court (Davidson County).
 - According to the AOC, its recurring expenditures will be \$280,645 for the two positions including salary, benefits, and operational costs. A one-time increase in state expenditures of \$20,000 in FY13-14 for office supplies and computers.
 - According to AOC, Davidson County's share of expenditures for the new positions will increase recurring local expenditure by \$89,818.
 - AOC indicates that additional courtroom space will be needed to house the new Chancellors and their staff. AOC indicates that one existing courtroom can be utilized if certain modifications are made. A one-time increase in local government expenditures of \$60,000 for required renovations in FY13-14.
 - AOC indicates a recurring increase in state expenditures of \$157,500 beginning in FY14-15 for 65 percent of indigent offenders receiving public counsel at a rate of \$40 per hour for out-of-court time and \$50 per hour for in-court time.
 - The Secretary of State will require two additional Administrative Judges to hear cases regarding proposed revocations and one additional support staff. Total recurring expenditures for the three new positions will be \$320,000.
 - The Secretary of State will be reimbursed by DOS for hearing expenditures. The Secretary of State's office estimates approximately \$1,400,000 in recurring expenditures for cases to be reimbursed by DOS.
 - The Office of Attorney General (AG) indicates that it would be required to represent DOS in appealed cases. As a result, three additional attorney positions would be required. The recurring increase in state expenditures for three additional attorney positions is estimated to be \$319,000 per year (salary, benefits, communications, supplies, etc.).
 - DOS will receive additional state revenue derived from processing fees, reinstatement fees, fees for filing proof of financial responsibility, and the issuance of driver licenses, temporary permits, and photo identifications.
 - Based on DUI arrests and convictions data, DOS estimates the recurring increase in state revenue (from all additional revenue sources) to be approximately \$3,890,300 per year beginning in FY15-16. The increase in state revenue for FY14-15 is estimated to be \$1,663,600.
 - The total increase in state revenue in FY14-15 will be \$1,692,300 (\$28,700 + \$1,663,600)
 - The total increase in recurring state revenue in FY15-16 and subsequent years will be \$3,919,000 (\$28,700 + \$3,890,300).

- The increase to local government expenditures resulting from law enforcement officers being required to testify at hearings is estimated to be \$68,700 per year.
- Total state expenditures in FY13-14 will be \$5,263,845 (\$2,766,700 + \$280,645 + \$20,000 + \$157,500 + \$320,000 + \$1,400,000 + \$319,000).
- Total state expenditures in FY14-15 and subsequent years will be \$6,989,945 (\$4,512,800 + \$280,645 + \$157,500 + \$320,000 + \$1,400,000 + \$319,000).
- Total local expenditures in FY13-14 will be \$218,518 (\$89,818 + \$60,000 + \$68,700).
- Total local expenditures in FY14-15 and subsequent years will be \$158,518 (\$89,818 + \$68,700).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise".

Lucian D. Geise, Executive Director

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